

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

COMMUNITY FIRST CREDIT UNION,

No. C 10-3743 SI

Plaintiff,

**ORDER REMANDING CASE TO
SUPERIOR COURT FOR COUNTY OF
SONOMA**

v.

J.L. CHANDLER,

Defendant.

On August 23, 2010, *pro se* defendant J.L. Chandler removed this unlawful detainer action from state court. In an amended order filed October 13, 2010, the Court ordered defendant to show cause by October 25, 2010, why this case should not be remanded to state court for lack of jurisdiction.

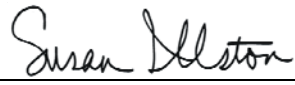
Defendant has filed a response to the Order to Show Cause, plaintiff has filed an opposition, and defendant has filed a reply. Defendant seeks leave to file a counterclaim adding new diverse parties, and defendant contends that with the addition of these new parties, the Court will have jurisdiction over this case on the basis of diversity of citizenship. However, as stated in the Order to Show Cause, from the face of the complaint there is no federal question jurisdiction; where there is no federal question jurisdiction, an action is not removable if the defendant is a citizen of the state in which the action was brought. *See* 28 U.S.C. § 1441(a), (b). Here, defendant is a California resident, and thus defendant cannot remove this case to this Court. *See* Notice of Removal Ex. A (proposed state court cross-complaint stating that defendant is a resident of Sonoma County, California). Moreover, when diversity of citizenship is the basis for removal, it must exist at the time the original action is filed in state court, which is not the case here. *See Miller v. Grgurich*, 763 F.2d 372, 373 (9th Cir. 1985).

Accordingly, the Court REMANDS this case to the Superior Court for the County of Sonoma.

1 All pending motions are DENIED as moot. The Court exercises its discretion and denies plaintiff's
2 request for attorneys' fees and costs related to the improper removal.

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4 **IT IS SO ORDERED.**

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6 Dated: November 2, 2010



SUSAN ILLSTON
United States District Judge